

Division of Real Estate NEWS

A publication for Utah's real estate,
appraisal, and mortgage professionals.

Gary R. Herbert, Governor

Francine A. Giani, Executive Director

Deanna Sabey, Division Director

FIRST QUARTER 2011

BROKERS: **THE FIRST LINE OF DEFENSE** **TO PROTECT THE PUBLIC**



Real estate brokers have many responsibilities they must carry out in the process of running a real estate brokerage. It is a serious undertaking and requires much more than being a good

salesperson, or being a friend to the sales and support staff. This article addresses only a portion of the real estate broker's responsibilities in operating a brokerage in the State of Utah. This article is intended to share some of the topics from complaints Division of Real Estate receives on a regular basis.

It is not until they earn a license and go out into the real world that they become faced with the problematic scenarios that can confront a sales agent.

That is where a knowledgeable, honest, responsible broker can save the day, not to mention save a license and a career. The supervisory responsibilities of a principal broker cannot be ignored; it is mandated by statute and rule. The buck, as they say, stops with the principal broker. Large brokerages may have branch managers to assist with some of the duties of running an office; however, the principal broker is still the responsible individual.

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The Division has published numerous articles in the last four newsletters about some of the fraudulent activities taking place in our state such as mortgage fraud, short sale scams, foreclosure rescue scams, loan modification scams and affinity fraud, to name a few. In many cases, the Division has taken action against individuals, both licensed and unlicensed, for their actions and violations of our statute and rules, and these violations have resulted in licensing actions and fines.

It is obvious to the Division that when a good, responsible broker is involved in a transaction, there is less misrepresentation and deceit. In pre-license education, new licensees are taught the rudiments of real estate sales and real estate law.

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From the Director's Desk



Deanna Sabey

Spring is here and as a gardener, I love it. Although I have hours of outside chores, spring brings the promise of beautiful flowers and a bountiful harvest. The second I spot the daffodils pushing through the earth, I start making plans for my best garden ever.

Let me draw an analogy to the economic forecast for Utah. Like daffodils emerging from the earth, the residential and commercial real estate markets are starting to grow, so start planning for a successful business future.

It is interesting that Utah's legislative session ends shortly before spring begins. I am not certain what analogy should be drawn from my observation, but I am certain that opinions of an appropriate analogy would be varied. In the session this year, Representative Froerer ran the Division's bill (H.B. 91) and it successfully passed and will become effective May 10, 2011. The highlights of the bill are set forth in the summary included in this Newsletter. Licensees will be especially interested to note that they will no longer be required report most traffic infractions and will only have to comply with the 10-day reporting requirement for convictions, pleas in abeyance, or potential resolution of criminal offenses involving felonies, and Class A and B misdemeanors. For anyone engaging in loan modifications or foreclosure rescue services after the effective date, it will be illegal to charge for those services until the services are provided (as evidenced by a written agreement consummated between the lender and the consumer). Appraisers who are also real estate brokers or agents will be permitted to provide broker price opinions if they are doing so in the capacity of a real estate professional and not an appraiser. The bill also made numerous changes to the Appraisal Management Company Registration and Regulation Act.

For the full bill text, go to: <http://le.utah.gov/~2011/bills/hbillamd/hb0091s01.htm>.

Mortgage call reports have been a hot topic lately. NMLS is gearing up to accept mortgage call report filings (which consist of company financial information and detailed production information), and NMLS administrators require the reports to be filed quarterly. The SAFE Act itself requires loan originators to provide mortgage call reports in order to be licensed, but the Act does not specify the frequency of filing or the content to be required in call reports. Some mortgage industry professionals believe that NMLS administrators have exceeded the scope of authority given by the SAFE Act in the way they are handling the call report requirement. In Utah, there is no statutory requirement for any mortgage licensee or applicant to provide mortgage call reports. Until the Utah Residential Mortgage Practices Act is revised next year to require mortgage call reports, the Division does not have the authority to mandate their filing.

In Governor Herbert's State of the State address given on January 26th, he said he had asked each of his Cabinet members to review existing business regulations and determine which could be kept, which should be modified, and which will be eliminated. During this year, the Division will review each of its regulations to comply with the Governor's request. If you have an opinion you would like to share regarding existing business regulations that you believe should be modified or eliminated, please let the Division know by sending an e-mail, including your contact information, to realestate@utah.gov.

Lastly, our annual Caravan is coming up beginning April 26th in Logan and ending in Moab on May 12th. I hope to see you at Caravan!



SUMMARY OF H.B. 91, 1st Sub.

- For ALL industries, expand automatic suspension for bounced checks to include any method of payment that is not honored (ACH).
- For APPRAISAL, MORTGAGE, and REAL ESTATE, exempt class C misdemeanors from the 10-day reporting requirement.
- For MORTGAGE and REAL ESTATE:
 - Specify that Commission review of a Division order is de novo.
 - Prohibit up-front fees for loan modification/foreclosure rescue services.
- For REAL ESTATE, define "business opportunity" and specify that licensure is required to sell or negotiate a business opportunity.
- For APPRAISAL:
 - Reorganize the existing provisions to be more user-friendly.
 - Correct inconsistencies within the statute regarding concurrence of the Division and the Appraisal Board for rulemaking and fee setting.
 - Add concurrence of the Division for decisions relating to disciplinary proceedings.
 - Allow appraisers who are also real estate licensees to produce broker price opinions without complying with USPAP.
- For APPRAISAL MANAGEMENT:
 - Increase penalty for violating an AMC statute or rule to a maximum of \$5,000 per violation.
 - Limit the automatic revocation provision to apply only where an AMC control person fails to disclose criminal history involving a felony or misconduct in the industry.
 - Revise the definition of AMC to be more clear and accurate.
 - Give the Division concurrent rulemaking authority with the Appraisal Board.
 - Give the Division authority to extend a registration past its expiration date if renewal is pending or applicant is under investigation.
 - Provide that decisions relating to disciplinary proceedings be made through concurrence of the Division and the Appraiser Board.
 - Prohibit an AMC from requiring an appraiser to indemnify the AMC against liability except liability for errors and omissions by the appraiser.
 - Specify that disciplinary action may be taken for a violation of 15 U.S.C. Sec. 1639e(i), customary and reasonable fees provision, to the extent permitted by federal law.

Welcome to DRE

The DRE is pleased to welcome Xanna Hardman as our new assistant attorney general. Xanna graduated from the BYU law school in 2005 and has experience in real estate law and litigation. She will be an excellent partner with the enforcement arm of the Division.

Utah!

NEWS

DIVISION of REAL ESTATE

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continued from page 1

BROKERS: **THE FIRST LINE OF DEFENSE** **TO PROTECT THE PUBLIC**

Brokers are instrumental in stopping questionable and illegal transactions. Each month, we receive calls from sales agents with questions about client demands that place the licensee in a position to compromise standards and ethics. We ask if the agent has spoken to his or her broker about the issue. Many times the answer is “no.” We always refer the agent back to the broker first. Sometimes, but not often, we then receive a call from the salesperson’s broker to find an answer to the original question. What this tells us is that, in the majority of the instances, the broker already knows the answer and guides the agent in the right direction.

The principal broker has a responsibility to make sure that every sales agent who works for the brokerage has a current license to practice in our state. In addition, the broker has the responsibility to ensure that unlicensed individuals do not act as licensees, (See Utah Administrative Code [R162-2f-401c\(1\)\(i\)](#)). Closely related to this issue, Utah Administrative Code [R162-2f-401g](#) governs the use of personal assistants and specifies what an unlicensed assistant may and may not do. The principal broker needs to supervise every individual who works for the brokerage. There is an allowance for the broker to assign certain supervisory duties to other licensees in the company; again however, the principal broker is ultimately responsible.

Lately, several instances have occurred where a sales agent’s license has expired, but the agent continues to act in the capacity of a licensee. The public believes the person is authorized to practice real estate, when in fact that person has no legal authorization to do so.

Recent Division newsletters contain actions taken against individuals, sales agents and brokers for these very violations.

The public has a right to trust that a person who conducts real estate activities for a brokerage is licensed

and the public is protected by Division of Real Estate statutes and rules. This is particularly important in the Real Estate Education, Research, and Recovery Fund. This fund is established to reimburse the public for damages caused in a real estate transaction by an individual licensed under the Real Estate Licensing and Practices Act. Certain requirements must be met to take advantage of this fund. One is that the person responsible for the financial damage must be licensed with the Division.

Obviously, the broker cannot be held liable for all of the actions of the individuals in the brokerage if some of those individuals do not conform to the principal broker’s written policies and procedures. The division rules include what is referred to as a “safe harbor” for the principal broker. This protective section basically indicates that if the broker has adhered to certain protective measures, then the Division will not deem the broker in violation for the actions of sales agents or staff who have violated the statute and rules. This safe harbor rule can be found at [R162-2f-401c\(2\)](#). It is relatively short and should be read and studied by every broker.



RESERVATION AGREEMENTS

Subdivision or Timeshare?

The Division has taken the position that in certain circumstances, the use of “reservation agreements” may be used by owners and developers to ascertain the market demand for planned projects. The rationale for this position is that a true “reservation agreement” is not a transfer, sale, or offer of sale.

The question of whether or not a “reservation agreement” is a sale, transfer, or offer of sale depends on a number of variables. On a case-by-case basis, the Division has not taken action against developers who use a “reservation agreement” prior to recordation with the county and registration with the Division, if the “reservation agreement” meets certain standards.

FOR SUBDIVISION, the agreement must:

1. not be a binding agreement to purchase.
2. expressly state in bold or highlighted text, in all capitals, on the first page of the agreement the disclaimer shown below. The disclaimer must be separated from any other text in the agreement by at least three single-space lines and must be in type no smaller than 10-point type:

THIS AGREEMENT IS NOT BINDING, IN ANY WAY, ON EITHER PARTY. YOU ARE NOT ESTABLISHING A LEGAL RIGHT OR CLAIM TO ANY LOT OR PURCHASE PRICE BY SIGNING THIS RESERVATION AGREEMENT.

3. expressly require the purchaser to take subsequent action to create a binding agreement, typically the execution of a Real Estate Purchase Contract.
4. not be accompanied by delivery of a Public Offering Statement, Property Report or similar documentation implying compliance with the Uniform Land Sales Practices Act (“the act”) if the lot or unit is neither registered under the act nor exempt from the act.
5. require that all deposits of fees received in connection with it will be placed in escrow with a licensed Utah real estate broker or other authorized escrow with specific

written instructions that the deposit or fees are refundable at any time at the option of the potential purchaser.

FOR TIMESHARE, the developer must:

1. provide separate written disclosure to the potential purchaser, prior to entering into the non-binding reservation agreement, that the reservation agreement does not obligate the potential purchaser in any way, and that no interest in real estate is being conveyed by signing the agreement.
2. place potential purchaser’s deposit in an escrow account controlled by a third-party escrow agent;
3. specify that deposit is fully refundable to the potential purchaser within 5 business days of written request to the developer.
4. allow agreement, other than the refundable deposit provision, to be terminated at any time by either party.
5. have an ownership interest in the real property where the timeshare project is located.

If the project developer adheres to the conditions above, he/she may use non-binding “reservation agreements” for the pre-sale of lots or timeshare interests in the proposed project and engage in limited advertising to publicize that the developer is taking reservation deposits only for the project’s reservation opportunity.

Last but not least, whether subdivision or timeshare, the “reservation agreements” do not avoid the obligation to comply with the requirements of the Utah Uniform Land Sales Practices Act or the Timeshare and Camp Resort Act.

Both acts provide for a temporary permit to begin a sales program during the registration process. Each developer must determine if a project complies with the county or municipal ordinances prior to registration with the Division.



RULE DEVELOPMENTS SINCE DECEMBER 31, 2010

APPRAISAL

An amendment to [R162-103](#) was published in the Utah State Bulletin on March 15. This amendment makes the following changes:

- In applying for certification, a school's directors, owners, and instructors must disclose whether they have ever entered a plea in abeyance or diversion agreement to a criminal charge.
- In order to receive credit for prelicensing or continuing education courses, a student must attend 100% of the scheduled class time.
- An individual may be awarded up to one-half of the required continuing education credit for teaching, program development, authorship of textbooks, or similar activities.
- Service on the education review committee, experience review committee, and technical advisory panel may constitute continuing education credit if approved by the Board as a course in accordance with standards set by the AQB.

Public comments will be accepted through April 14, 2011.

The Board and the Division are working to reorganize the existing rules in order to mirror the organization and numbering of the appraiser statute, which will be renumbered as § 61-2g on May 10, 2011. In addition, we are working on a few substantive changes, as follows:

- State-licensed appraisers and state-certified residential appraisers will be prohibited from performing appraisals of vacant land if the highest and best use of the land is for five or more one- to four-family units.
- Trainees will be required to document in their experience logs all experience hours completed from the date of trainee registration to the date of application for licensure. In other words, a trainee may not stop logging experience once the trainee reaches 2,000 hours. Nor may a trainee leave an assignment off the log so as to avoid having that assignment reviewed as part of the licensing process.

- The appraisals submitted by mass appraisers and mass appraiser trainees for consideration by the Experience Review Committee and the Board must be selected from an applicant's most recent work.

We anticipate that the newly-reorganized rules will be published for comment in the Utah State Bulletin in the next month or so.

APPRAISAL MANAGEMENT

Three amendments will be published for comment in the [Utah State Bulletin](#) in the next month. These amendments are as follows:

- R162-2e-201: An AMC must register with the Utah Division of Corporations and provide to the Division its certificate of existence in order to obtain a registration.
- R162-2e-304: When disclosing to an appraiser the total amount that the appraiser may expect to earn from an assignment, an AMC must account for fees and costs that will be charged to the appraiser.
- R162-2e-401: An AMC may not charge an appraiser a fee or cost that is undisclosed or that is inflated above the actual cost of a service provided by a third party. Nor may an AMC charge an appraiser for a service that is not actually performed.

Public comments will be accepted for 30 days after the date of publication.

MORTGAGE

On January 7, 2011, two rule amendments were made effective, as follows:

- [R162-2c-201](#): A licensee who allows the license to expire and thereafter applies for a new license is not required to re-take the 20-hour national prelicensing course, but is required to complete certain continuing education. All individuals applying for licensure shall complete, sign, and submit to the Division a social security verification form. Mortgage entities are prohibited from operating under a business name that closely

resembles the name of another licensed entity or that is otherwise confusing or misleading.

- [R162-2c-204](#): An individual who completes pre-licensing education and obtains the associated license within a calendar year is not required to complete additional continuing education to renew the license in the same calendar year.

On March 1, 2011, two rule amendments were published for comment in the Utah State Bulletin, as follows:

- [R162-2c-201](#): A principal lending manager may not simultaneously serve as a branch lending manager, and an individual may not serve as the branch lending manager for more than one branch at any given time.
- [R162-2c-202](#): The specific factors that disqualify an applicant from licensure are outlined.

Public comments will be accepted until March 31, 2011.

REAL ESTATE

On March 15, 2011, three rule amendments were published for comment in the Utah State Bulletin, as follows:

- [R162-2f-205](#): The Division may not register an entity if it proposes to use a business name that closely resembles the name of another registered entity, or that the Division determines might otherwise be confusing or misleading to the public.
- [R162-2f-401a](#): In order to offer a property for sale or lease, a licensee must disclose the source on which the licensee relies for any square footage data that will be used in the marketing of the property. This disclosure must be made in the listing agreement executed between the licensee and the seller and also in a written disclosure to the buyer on or before the contract deadline for seller disclosures.
- [R162-2f-403](#): A principal broker may not pay a commission from the real estate trust account without first depositing the withdrawn funds into the brokerage operating account.

Public comments will be accepted until April 14, 2011.



Staff Spotlight

Jill Childs Real Estate Licensing Specialist



Jill has been a Real Estate Licensing Specialist since July 2007. As part of her multiple duties, she reviews and processes new license and renewal applications, reviews education waiver requests and, most importantly, she is one of our elite customer service specialists.

Jill receives numerous calls every day (near the end of the month, she can take over 100 calls per day). The calls can be simple, as in, "I need your help to renew my license" There are also more complex licensing issues that require Jill's skills to rectify or resolve. Jill professionally handles all incoming calls. She works for resolutions that provide the best possible outcome for our licensees. Jill enjoys the challenge of doing research and finding solutions to licensing dilemmas. Customer service is definitely Jill's specialty.

She enjoys working for the DRE because she is able to work with and assist a wide variety of people from all across the country. She loves to tell people from other areas about living in Utah and all the great things there are to do.... especially all the great golf courses and camping areas.

Jill worked retail management before coming to the DRE but now loves her weekends off and spending time camping and golfing with her two adorable little boys, Evan and Marshall. Her family time also includes being the #1 [Dallas Cowboys](#) fans....EVER!!



First Quarter 2011

Licensing Actions & Disciplinary Sanctions



Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.

LEGAL CORNER



Safeguarding Personal Information (Safeguards Rule – Gramm-Leach-Bliley Act)

Federal law mandates that companies ensure the security and confidentiality of non-public personal information. The Safeguards Rule of the Gramm-Leach-Bliley Act (the “Act”) defines this information as personally identifiable financial information: provided by a consumer to a business; received as a result of doing business with the consumer; or otherwise obtained by the business. Companies must develop a written information security plan and assess and address the risks to customer information. The Safeguards Rule is enforced by the Federal Trade Commission, and all companies licensed or registered through the Division are required under the Act to comply. The complexity of the plan and assessment depends heavily on the nature and size of the business operation. There are a number of good resources available on the Internet for guidance in how to comply with the Safeguards Rule, including the one below available from the Federal Trade Commission.

<http://business.ftc.gov/documents/bus54-financial-institutions-and-customer-information-complying-safeguards-rule>

Disclaimer: the Utah Division of Real Estate has provided articles in this electronic newsletter (“e-newsletter”) for general informational purposes only. It is not intended as professional advice or counsel and should not be used as such. You should contact your attorney to obtain advice with respect to any particular issue or problem.



Kagie's Korner

As the floor investigator for the Division, Van gets many calls concerning property management and what agents can or cannot do.

May an agent do property management through my brokerage? This is a question Van is asked many times by agents and brokers. There seem to be differing opinions out there in the industry. Often, brokers and agents think they can do sales or property management, but not both. To answer this question, you need to review the license number of the brokerage with which the agent is affiliated. If the license number for the brokerage ends in **CN00**, then the agent can do both property management and sales through the brokerage. A brokerage with the **MN00** designation can do property management only. **No real estate sales activity may be conducted by a MN00 brokerage (property management) company**, as per Utah Administrative Code [R162-2f-401\(j\)\(4\)](#).



May an agent with a property management company be paid a referral fee in connection with sales activity? Yes, a referral fee can be paid to the broker at the property management company if an employee refers a tenant/client to an agent at a sales office in order for the client to buy a home. This fee must always be paid through the broker.

May a sales office run property management funds through the trust account? Yes, the broker of a sales office may run up to six individual units through the real estate sales office trust account before being required to open a property management trust account as required by Utah Administrative Code [R162-2f-403\(4\)](#), as follows:
 (a) A principal broker who regularly engages in property management on behalf of seven or more individual units shall establish a property management trust account separate from the real estate trust account.
 (b) A principal broker who collects rents or otherwise manages property for no more than six individual units at any given time may use the real estate trust account to secure funds received in connection with the principal broker's property management activities.

Is there a limit to the number of properties I am allowed to manage? As a real estate licensee, there is no limit to the number of units that can be managed.

The following chart might help with the question regarding Property Management Offices and Real Estate Sales Offices.

Office	Property Management	Sales	Trust account	Referral Fees
Sales office CN00	Yes—no limit on number of units managed	Yes	Up to 6 individual units may be managed through the real estate trust account.	Yes—through the principal brokers
			Management of 7 or more units requires separate property management trust account	
Property Management office MN00	Yes—no limit on number of units managed	No	Property management trust account required.	Yes—through the principal brokers

Mortgage Licensing Update

The two-month license reinstatement period ended on February 28, 2011. This draws to a conclusion the initial license renewal process for mortgage licensees under the Nationwide Mortgage Licensing System (NMLS). Mortgage licensees have and are currently facing significant industry pressures and challenges. The combined influences of this continued downturn in the mortgage lending market, along with the complex NMLS licensing renewal procedures and requirements, have contributed to the significant decreases in overall licensee numbers.

As of the end of February 2011, there were a total of only 3,311 mortgage loan originators (including MLOs, PLMs, ALMs, and BLMs), 451 active mortgage companies, and 176 branch offices licensed with the Division.

The requirements for individuals applying for a new mortgage license include each of the following:

- 1) Successfully complete an **NMLS 20-hour pre-license course**.
- 2) Successfully complete a **Utah DRE 40-hour MLO pre-license course**.
- 3) Take and pass an **NMLS national exam**,
- 4) Take and pass the **NMLS Utah state exam**.
- 5) Submit **NEW fingerprints through the NMLS and authorize a criminal background check** as part of your NEW licensing application.
- 6) Authorize the **NMLS to pull your credit report**.
- 7) Make mortgage loan originator application **through the NMLS**. (To make application, go to <http://mortgage.nationwidelicingsystem.org/Pages/Lic-or-Reg-MLO.aspx>).

Former mortgage licensees may be granted limited exemptions to the first six new application requirements specified above. Please refer to the expired licensee exemption grid found on pages 14 and 15 of this newsletter to determine if you qualify for any exemptions to the mortgage license requirements for new applicants.

Having concluded the 2011 license renewal milestone, mortgage licensees can now focus their efforts exclusively on serving their customers and generating mortgage loans.

Division staff will be reviewing and evaluating credit reports submitted by licensees over the next six months. These reports were authorized by licensees at the time of license renewal (or initial application). See the article on page 13 of this newsletter to learn of the review standards Division staff will be using in their evaluation of credit report information.



Division Website Revamped

The last time you visited the Division's website, you were probably surprised to see some interesting changes. In an attempt to make the website more user-friendly, the Division evaluated phone calls coming into our office to determine what questions licensees and the general public often ask.

The revisions to our site include notices of upcoming events on the main menu. Specific licensing types now feature color-coded boxes with commonly sought information to allow easy use. The real estate license management system (RELMS) and CE search engine buttons are both prominently displayed on the real estate and appraisal pages.

Check out the recent revisions to the website at <http://realestate.utah.gov/>. Suggestions or comments regarding our website should be e-mailed to realestate@utah.gov.



LOGAN

April 26, 2011

1:00 pm - 4:00 pm

Bridgerland Applied Technology College
1301 North 600 West

OGDEN

April 28, 2011

9:00 am - Noon

Ogden-Weber Applied Technology College
200 N Washington Blvd

LONDON

May 3, 2011

9:00 am - Noon

Noah's
644 North 2000 West

PARK CITY

May 5, 2011

9:00 am - Noon

Park City Marriott
1895 Sidewinder Dr.

ST. GEORGE

May 10, 2011

9:00 am - Noon (1st session)

2:00 pm - 5:00 pm (2nd session)

Dixie Center Auditorium
1835 Convention Center Dr.

RICHFIELD

May 11, 2011

12:00 pm - 3:00 pm

Sevier County Administrative Building
250 North Main

MOAB

May 12, 2011

9:00 am - Noon

Grand Center
182 North 500 West

DIVISION OF REAL ESTATE 2011 SPRING CARAVAN

The Division of Real Estate is offering a **FREE** 3 hour Continuing Education Core course for real estate and appraiser licensees. Mortgage licensees are also encouraged to attend the 2011 CARAVAN. However, due to NMLS changes we are unable to offer mortgage CE credit.

NEW INFORMATION!! PLEASE READ!!

There continues to be **NO CHARGE** to attend the Division CARAVAN. However, those who register and then fail to attend without cancelling their scheduled reservation at minimum three days prior to the event will be charged a \$10.00 "NO SHOW" fee.

*Please complete the online registration by logging onto: www.realestate.utah.gov/caravan.html. Provide your name, license number, location/date you wish to attend, along with a credit card number to reserve your seat.

Deanna Sabey, Director of Real Estate, Dee Johnson, Director of Enforcement & Mark Fagergren, Director of Education & Licensing will be discussing current issues and hot topics facing the real estate, mortgage and appraiser industries. They will also be available for any questions and concerns you may have as a licensee.

~RESERVE YOUR SEAT NO LATER THAN
THREE DAYS PRIOR TO THE CARAVAN~

~SEATING IS LIMITED~

~STAND BY SEATING IS NOT GUARANTEED~

Appraiser Information...

Odds & Ends

Continuing Education Banking - It has now been two years since appraiser continuing education (CE) course providers have been required to receive Division CE course approval *before* teaching a course in Utah.

Since all Utah courses have been required to provide CE banking for two years, appraiser on-line renewal applications will no longer allow the addition of CE course credits by licensees when they renew their appraiser licenses. Only provider-banked appraiser CE credit will be allowed for appraiser license renewals.

To receive CE credit for non-certified CE course(s) taken outside of Utah, an appraiser will need to complete and submit a formal request; the [form](#) is available on the DRE website. Please allow sufficient time (at least 30 days before you renew your license online) for Division staff to process non-certified CE requests. Approved application requests will be banked into the appraiser's individual RELMS CE account.

Appraisers should regularly check their RELMS accounts to view the CE courses that have been completed and banked. Please remember to confirm your banked CE education credits before you attempt to renew your license.

National Registry Fee Increase – Beginning 1/1/12 the national registry fee will increase from \$50 - \$80, every two years, at license renewal. This fee is sent to the Appraisal Subcommittee (ASC).

“Falling-Off” National Registry - At the end of each month, the Division submits information to the ASC, updating all appraiser licensee database changes made during the preceding month. From the updated information received from the Division, the ASC returns an invoice to the UDRE for the payment of national registry fees owed.

Since there is some time delay between when the Division submits the updated licensing records and when the ASC refreshes its database records, renewing appraisers may temporarily show as expired during the first few days of the month following license renewal.

Appraisal renewal notices are sent to appraisers approximately six weeks before the date of license expiration. To ensure that your license does not temporarily fall off the national registry, you must **renew your license in the month preceding its expiration date**. For example, if your license expires on May 31, your license renewal notification will be sent out sometime near the middle of April. The courtesy postcard notification is mailed to the address you have designated in the RELMS system. You must renew your license during the last two weeks in April if you want to ensure that you do not briefly fall off the national registry at the end of May.

ASC Audit of Division Now Requires Random Sampling of Mass Appraiser Experience Logs Submitted at Application – The Division will be requesting documentation of sample log files submitted for mass appraiser license applications. The documentation needs to independently corroborate the experience the applicant has submitted.

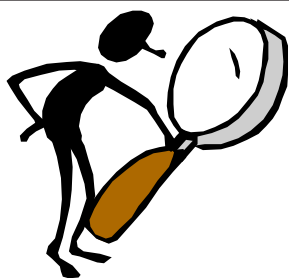
Public Meeting of the Appraisal Qualifications Board (AQB) in Salt Lake City ****Registration Required If You Desire To Attend****

The AQB will conduct a public meeting in Salt Lake on **April 29, 2011, from 8:30 a.m. to 12:00 p.m. at the Salt Lake City Marriott Downtown, 75 S. West Temple**. The following items are on the Board's agenda:

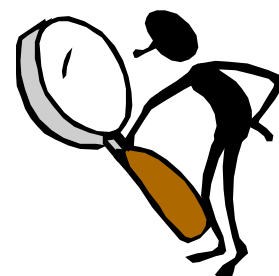
- Third Exposure Draft of Proposed Revisions to the Future Real Property Appraiser Qualification Criteria
- Second Exposure Draft of Proposed Revisions to the Personal Property Appraiser Qualification Criteria
- National Uniform Licensing and Certification Examinations
- Course Approval Program Activity
- Undergraduate Degree in Real Estate Review Program

Individuals who wish to address the AQB regarding any agenda item(s) are asked to submit a written request to the Chair outlining the agenda topic(s) to be addressed.

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Mortgage Credit Report Reporting & Analysis



The SAFE Act requires mortgage loan originators to meet certain financial responsibility standards. This legislation specifies that the applicant must demonstrate “financial responsibility, character and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly and efficiently”.

The Utah DRE has an administrative rule that further defines the financial responsibility standards for mortgage loan originators, as follows:

Utah Administrative Code

R162-2c-202 (3) Financial responsibility. Individual applicants shall evidence financial responsibility. To evaluate an applicant for financial responsibility, the division shall:

- (a) access the credit information available through the NMLS of:
 - (i) an applicant for initial licensure, beginning October 18, 2010; and
 - (ii) a licensee who requests renewal during the 2010 renewal period, unless the licensee’s credit report was reviewed in issuing the initial license; and
- (b) **give particular consideration to:**
 - (i) **outstanding civil judgments;**
 - (ii) **outstanding tax liens;**
 - (iii) **foreclosures;**
 - (iv) **multiple social security numbers attached to the individual’s name;**
 - (v) **child support arrearages; and**
 - (vi) **bankruptcies.**

The SAFE Act requires that credit reports for loan originators be “pulled.” The Utah DRE will be looking only at flagged information contained within the credit report consistent with requirements of the SAFE Act and the administrative rule stated above.

In addition to the number and dollar amount of **civil judgments** and/or **tax liens** incurred by mortgage licensees, the Division will also be looking to see if reasonable payment plans have been established and are being complied with.

Single personal residence mortgage **foreclosures** occurring within the past three years and/or a single **bankruptcy** having occurred within the past ten years will **not** negatively impact an individual’s Utah mortgage license **without** other negative credit reporting issues that result in a significant derogatory impact upon the licensee’s overall financial responsibility.

Child support arrearages can impact an individual’s mortgage license **if** combined with other negative credit information.

Multiple **social security numbers** and/or **names** **will** negatively impact an individual’s mortgage license unless there is a reasonable explanation and/or justification for their existence.

The Division will be judiciously evaluating credit information and will make licensing decisions based upon the totality of an MLO’s overall financial responsibility rather than merely looking to see if any such deficiencies appear in the report.



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Odds & Ends

These requests should be forwarded to The Appraisal Foundation, via email to magdalene@appraisalfoundation.org or fax to (202) 347-7727 to the attention of the AQB.

Individuals wanting to attend this meeting are required to register in advance at: [The Appraisal Foundation](http://TheAppraisalFoundation.org)



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Expired License Grid and Application Requirements for Mortgage Licensees

Follow the chart below to determine what items you need to complete to obtain an MLO license in Utah. If you have had a license in the past, some of the requirements you have completed within the last 5 years will still apply towards your new license.

MLO License KEY: X =always required, NO exemptions. E =exemption MIGHT apply—carefully review the exemptions explained below. N = not required.		Individual never licensed	Individual previ- ously licensed in Utah , but expired	Individual currently licensed in another state
40-hour Utah-specific MLO preclicensing education For list of approved schools go to www.realestate.utah.gov		X	X	X
20-hour NMLS preclicensing education For list of approved schools go to www.statemortgageregistry.com		X	E1	N
NMLS Utah state exam Schedule through NMLS www.statemortgageregistry.com		X	E2	X
NMLS national exam Schedule through NMLS www.statemortgageregistry.com		X	E3	N
Social Security verification form Available at www.realestate.utah.gov		X	X	X
Credit report authorization Complete on your NMLS filing at www.statemortgageregistry.com		X	X	X
Fingerprints Complete on your NMLS filing at www.statemortgageregistry.com		X	X	X
Exemptions: E1: If you completed the 20-hour NMLS preclicensing course within the 5-year period preceding date of application, you do not have to retake it. E2: If you passed the Utah NMLS exam within the 5-year period preceding date of application OR certified the exam during Utah's transition onto the NMLS system, you do not have to retake it. E3: If you passed the NMLS national exam within the 5-year period preceding date of application, you do not have to retake it.				

Expired License Grid and Application Requirements for Lending Manager Licensees

Follow the chart below to determine what items you need to complete to obtain a Lending Manager license in Utah. If you have had a license in the past, some of the requirements you have completed within the last 5 years will still apply towards your new license.

Lending Manager License (PLM, ALM, or BLM) KEY: X =always required, NO exemptions. E =exemption MIGHT apply—carefully review the exemptions explained below. N =not required.	Individual currently licensed in Utah as MLO	Individual previously licensed in Utah as MLO or Lending Man- ager , but expired	Individual currently licensed as MLO in another state
20-hour NMLS preclicensing education For list of approved schools, go to www.statemortgageregistry.com	N	E1	N
NMLS Utah state MLO exam Schedule through NMLS www.statemortgageregistry.com	N	E2	X
NMLS national exam Schedule through NMLS www.statemortgageregistry.com	N	E3	N
40-hour Utah-specific PLM preclicensing education For list of providers, go to www.realestate.utah.gov	X	X	X
Utah PLM exam Schedule through PearsonVue (not NMLS)	X	X	X
Experience documentation form Available at www.realestate.utah.gov	X	X	X
Social Security verification form Available at www.realestate.utah.gov	X	X	X
Credit report authorization Complete on your NMLS filing at www.statemortgageregistry.com	X	X	X
Fingerprints Complete on your NMLS filing at www.statemortgageregistry.com	X	X	X
Exemptions: E1: If you completed the 20-hour NMLS preclicensing course within the 5-year period preceding date of application, you do not have to retake it. E2: If you passed the Utah NMLS exam within the 5-year period preceding date of application OR certified the exam during Utah's transition onto the NMLS system, you do not have to retake it. E3: If you passed the NMLS national exam within the 5-year period preceding date of application, you do not have to retake it.			